IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 11361 of 2002

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

STATE OF GUJARAT

Versus

AGRICULTURAL AND RURAL LABOUR ASSOCIATION

Appearance:

MR ND GOHIL, AGP, for Petitioner No. 1

MR NIKHIL D JOSHI for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 06/08/2004

ORAL JUDGEMENT

1.1 By this petition, the petitioner-State of Gujarat has challenged the judgement and award passed by the Industrial Tribunal, Nadiad, dated 1.3.2002 in Reference (IT) No.223/98 (Old Reference No.116/91), whereby the

Tribunal has directed the petitioner to employ 22 workmen on the muster roll of daily wager and workmen who have completed five years as on 1.1.2002 should be treated as work charge employees if they have completed 240 days in any of the year and their services rendered will be considered for the purpose of pension, gratuity and other benefits.

2.1 The respondent workmen were working with the petitioner department since long time. The respondents workmen therefore in Reference (ITN) No.223/98 prayed to make them muster daily wager permanently on completion of 120 days and further to give benefits accordingly from 1.1.1987. The Labour Court allowed the said reference and passed the above award.

3.1 Mr. N.D. Gohil for the petitioner submitted that the Irrigation Department is not an "industry" in view of the decision reported in 2000 Vol. I, GLH, page 482. However, the said decision has been reversed by the decision of the Full Bench in the case of Gujarat F.P.G. & F.W. Union Vs. State of Gujarat, reported in 2004(2) GLH 302 wherein it is held that Irrigation Department is an "industry" as defined under the Industrial Disputes Act. Therefore there is no substance in the first contention raised by the learned counsel for the petitioner.

3.2 Mr. Gohil next contended that the respondent workmen have not completed 240 days. In this connection it is required to be noted that the Tribunal has considered the length of service of the workman right from 1975 as watchman and keeping in mind the principles of Section 25G and H, the Tribunal has only directed to give them benefit that they should be taken on the muster roll of daily wager and the consequential benefits thereof. In my view, the decision taken by the tribunal is just and proper.

4.1 Mr. Joshi for the respondent pointed out that in Reference Case No.(ITN) 748/98 (Old case No.71/86), similar directions were given by the same Tribunal on 19th January 2001, which was challenged by way of SCA No.3388/02 before this Court. This Court, by order dated 23.9.2002 dismissed the said petition. The facts of the said case are identical to the present case and therefore the present petition is also required to be rejected.

4.2 Thus, in view of the above discussion nothing has been pointed out to show that the award passed by the Tribunal is in any way illegal or arbitrary.

5.1 In the result, there are no merits in the petition and the same is accordingly rejected. Rule is discharged with no order as to costs. The petitioner shall comply with the award within two months from the date of receipt of writ of this Court.

[K.S. JHAVERI, J.]

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